

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DeJUAN BURT THORNTON-BEY,
#20791-424,

Plaintiff,

v.

COMERCIA BANK,

Defendant.

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Civil Action No. **3:13-CV-1657-L**

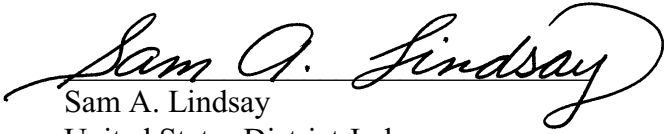
ORDER

Plaintiff DeJuan Burt Thornton-Bey (“Plaintiff”) brought this action, seeking access to his grandmother’s bank account. The case was referred to Magistrate Judge Renee Harris Tolliver, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on May 19, 2013, recommending that the case be dismissed with prejudice, pursuant to 28 U.S.C. §§ 1915(e)(2)(b) and 1915A(b), to the extent Plaintiff seeks to access his deceased grandmother’s bank account, and without prejudice for lack of subject matter jurisdiction insofar as he seeks to raise due process, breach of contract, gross negligence, and fraud claims. Additionally, because this is not the first lawsuit filed by Plaintiff alleging claims pertaining to his access to his grandmother’s bank account, the magistrate judge also recommended that Plaintiff “should be WARNED that a history of filing lawsuits, which are frivolous or over which the Court lacks subject matter jurisdiction, can be grounds for Rule 11 sanctions.” Report 6. Plaintiff filed objections to the Report, which are postmarked July 9, 2013.

Having reviewed the pleadings, file, record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **overrules** Plaintiff's objections to the Report, **dismisses with prejudice** Plaintiff's claims to the extent he seeks to access his grandmother's bank account, and **dismisses without prejudice** for lack of subject matter jurisdiction any due process, breach of contract, gross negligence, and fraud claims asserted by Plaintiff.

Further, the court admonishes Plaintiff that if he continues to file frivolous lawsuits or lawsuits over which the court lacks subject matter jurisdiction, the court will impose sanctions as it deems appropriate. The court **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3). In support of this finding, the court **adopts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the Report, the court finds that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

It is so ordered this 31st day of July, 2013.


Sam A. Lindsay
United States District Judge